

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANI HOURANI,

Petitioner,

vs.

Case No. 95-80071

Hon. Bernard A. Friedman

UNITED STATES OF AMERICA,

Respondent.

**PETITION FOR RELIEF UNDER THE FIRST STEP ACT OF 2018
CONDUCTED VIA ZOOM VIDEOCONFERENCE**

BEFORE THE HONORABLE BERNARD A. FRIEDMAN
United States District Judge
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan 48226
Thursday, September 17, 2020

APPEARANCES:

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EXHIBITSIdentificationOfferedReceived

NONE

1 Detroit, Michigan

2 Thursday, September 17, 2020

3 — — —

4 (Proceedings commenced at 2:28 p.m., all parties
5 present via Zoom videoconference)

6 THE CLERK: Okay, Judge. It looks as though everyone
7 is present. Are we missing anyone as far as you know, Mr.
8 Fishman or Ms. Currie?

9 MR. FISHMAN: No.

10 MS. CURRIE: Nope.

11 THE CLERK: Okay. All right, Judge.

12 THE COURT: Okay. I'm on my new computer.

13 THE CLERK: Oh.

14 THE COURT: Going to be a little bit -- we've got to
15 practice a little bit here so -- 'cuz it's a bit different. I
16 don't have a picture yet.

17 THE CLERK: I see you.

18 THE COURT: I see you but I -- it's just little teeny
19 ones in the corner.

20 THE CLERK: You may have to open up the -- the
21 window.

22 THE COURT: Okay. I see.

23 THE CLERK: You'll see the full screen. In the upper
24 right corner there's a little box.

25 THE COURT: Yes, I see it.

1 THE CLERK: Click that and see if that'll give you a
2 full screen.

3 THE COURT: Okay. I got you full. So let me see
4 here. I see you full. Let me go back to the view. Speaker --
5 oh, speaker/gallery view. Okay.

6 THE CLERK: Yeah, mm-hmm.

7 THE COURT: There we go. Okay. That's cool.
8 Hopefully it won't -- hopefully it won't go off like it did
9 last time. And so this now is on the -- on the bottom instead
10 of on the top. I see. Okay. That's -- that's good. Okay.
11 Mute. Okay. Anything else I should have on the bottom there?

12 THE CLERK: No. Do you see all of us, Judge, or no?

13 THE COURT: I see everybody, even Mr. Fishman.

14 THE CLERK: Okay.

15 MR. FISHMAN: I can't see anyone all of a sudden.
16 Judge, I hope you know this is the first time I've had a suit
17 on in six months, only for you.

18 THE COURT: It's the first time I've had a shirt on
19 in six months.

20 MR. FISHMAN: That was -- I think I'd only been in
21 golf shirts and all of a sudden I said to my wife, you know, I
22 think I'll put a suit and tie on.

23 THE COURT: It's nice. It's good to see you in a
24 suit and tie.

25 MR. FISHMAN: I can't see you guys, by the way. I

1 don't know what happened. I lost everyone.

2 THE CLERK: You may -- look at -- do you have that
3 little square in the upper right corner? You can switch
4 between the two, gallery view and then a full view.

5 MR. FISHMAN: It should but all I show is Zoom. It
6 just says Zoom. It doesn't say anything more than that.

7 THE CLERK: You must be -- you may need to minimize
8 that.

9 MR. FISHMAN: Minimize that. Aha! Genius.

10 THE COURT: There you go. This is so much nicer, so
11 much bigger and everything than my iPad.

12 MR. FISHMAN: Yeah, no, this is good.

13 THE CLERK: Okay. All right, Judge, you can call the
14 case.

15 THE COURT: We're waiting for the U.S. Attorney.

16 MR. FISHMAN: She's there.

17 THE CLERK: The U.S. Attorney is here.

18 THE COURT: Oh, here -- there she is. I'm sorry,
19 Jessica.

20 MS. CURRIE: Okay.

21 THE CLERK: And Mr. Hourani is on the phone as well,
22 Judge.

23 THE COURT: Is he not -- he's only on the phone --
24 Mr. --

25 THE CLERK: Right. They don't have a -- they don't

1 have video.

2 THE COURT: Okay. Is he on there?

3 MR. FISHMAN: Can you hear us?

4 MR. HOURANI: Yeah, I'm here.

5 THE COURT: Okay. Good. You can hear us.

6 MR. HOURANI: Yes, sir.

7 THE COURT: So are we all set?

8 MR. FISHMAN: Yes.

9 THE CLERK: Yes.

10 THE COURT: Let me call the case. This is Case No.
11 95-80071, Dani Hourani versus the United States.

12 Today's the date and time scheduled for a hearing on
13 a petition for relief pursuant to certain statutory sections,
14 commonly known as the First Step Act and so forth.

15 May we have appearances, starting with the government
16 please.

17 MS. CURRIE: Good afternoon, Your Honor. Jessica
18 Currie on behalf of the United States.

19 THE COURT: Okay. And on behalf of the defendant
20 please.

21 MR. FISHMAN: Good afternoon, Judge. Steve Fishman
22 on behalf of Mr. Hourani who's also present by phone.

23 THE COURT: Okay. And Mr. Hourani, you can hear us
24 and --

25 MR. HOURANI: Yes.

1 THE COURT: -- well?

2 MR. HOURANI: Yes.

3 THE COURT: You're able to hear, is that right?

4 MR. HOURANI: Yes, sir.

5 THE COURT: Okay. Let the record reflect before I
6 start that I wish to make sure that everybody is aware that
7 there came a time, I'm not sure when 'cuz I'm not in my office,
8 that I wrote a letter on behalf of Mr. Hourani to the Pardon
9 Board -- my understanding is the government at that time
10 received a copy of it -- supporting a pardon in this matter.

11 And the record should also reflect that there came a
12 time, at least two times, where I spoke to various, I think
13 two, different prisons or maybe the same on a class that Mr.
14 Hourani, I think he organized it, and through the Bureau of
15 Prisons we were able to connect and I essentially just talked
16 about the job of a judge in sentencing and also answered
17 questions.

18 So wanted to just disclose those two things. I think
19 everybody knew about them but just to make sure that you have
20 them.

21 Also the record should reflect that I have had an
22 opportunity to go over this file and read it very, very
23 closely, I'll tell you right now. I -- I think I read
24 everything in this file, which is not a usual; I usually read,
25 you know, most of it. I have the original petition. I have

1 and have read the United States' response. I have the reply of
2 the petitioner.

3 I then have also received and wanted to reread the
4 Pre-Sentence Report in this matter and I have read that, the
5 original Pre-Sentence Report.

6 I also have letters on behalf of Mr. Hourani, all of
7 which I have read, and without going all over all of them, I
8 read from his sister, his brother, other members of the
9 community and so forth, and it's my understanding that
10 everybody has a copy of those also.

11 So I had a chance to -- to really go over this
12 matter, so to speak, and read just about everything that I have
13 received.

14 So with that said, we'll start with the petitioner
15 and perhaps you'd like to highlight some things. I'm not sure
16 you have to go over all of the -- the things that you have
17 briefed. The government has responded to each of the matters
18 that have been briefed by petitioner, each of the theories of
19 petitioner in this matter. So, Mr. Fishman, you may go first.

20 MR. FISHMAN: And -- and as the Court knows, I'm not
21 one that's going to try to take forever since I know what you
22 just said. I expected that already. I know you've read
23 everything. I just want to highlight a few things and then I'd
24 like to be able to respond to the government after they make
25 their argument.

1 The Court already knows obviously it's a First Step
2 Act case, it's a compassionate release case, and I just want to
3 remind the Court of some of the cases that I cited to you: the
4 *Torres* case from New York, the *Rodriguez* case in California,
5 and more importantly, *United States vs. Sapp*, a case from this
6 district where Judge Leitman used the terminology that a court
7 may, quote, "independently evaluate whether the defendant has
8 extraordinary and compelling reasons." There's not any doubt
9 in my mind from knowing the case from the beginning and knowing
10 all the things that Mr. Hourani has done, and a couple of the
11 things I'll summarize for you, that those reasons exist.

12 I do want to comment real quickly, I did it in my --
13 in my reply brief, but the *Robinson* case that the government
14 cited where the Court denied relief for Mr. Robinson is
15 completely inapposite to this case. It had nothing to do with
16 the First Step Act. Robinson was more than once, I think twice
17 he was complaining about his stacked 924(c) convictions. The
18 Court correctly cited the Supreme Court case saying that, look,
19 you can't do anything about it and it was denied, but that had
20 nothing to do with what we're talking about here.

21 I want to emphasize again, which I obviously did in
22 my brief, the fact that there have been so many district courts
23 all across the country that have found extraordinary and
24 compelling reasons and have granted the compassionate release
25 sought in this petition as far away as Utah and Texas and

1 Maryland, California, a guy serving a life sentence in
2 Pennsylvania, a guy serving a life sentence in Florida. I'm
3 not going through the case names on those because the Court has
4 them all, but I think it's a significant thing.

5 And I think more than one district court, and the
6 Court's certainly had a chance to see the opinions, more than
7 one district court has indicated in its opinion granting
8 compassionate release that the trend is now in favor of a
9 majority of the courts that are considering it that are now
10 granting compassionate release.

11 I want to comment on two cases in specific or
12 specifically that are in my brief, and the first one is *Millan*,
13 M-i-l-l-a-n for Linda, that Southern District of New York case
14 where the defendant was serving a life sentence, he'd been
15 there more than 28 years, he'd been the leader of a heroin
16 group. And it was interesting when the judge granted it, the
17 judge pointed to two things. He pointed to the rehabilitation
18 that Mr. Millan has undergone, but he made a point that
19 applies, and this Court knows it very, very well in this case,
20 that when he began rehabilitating himself, and he hadn't done
21 one-third of what Mr. Hourani's done, there was no benefit to
22 him in those days because none of us thought there would ever
23 be a time where a person serving a life sentence would have the
24 opportunity to go back in front of the district judge that
25 sentenced him and perhaps get a resentencing. So I thought

1 that was significant in *Millan*.

2 The other case was the *Marks* case from the Western
3 District of New York where the government made pretty strong
4 statements about Mr. Marks' personal statements, and the Court
5 nonetheless also found the same thing: that his rehabilitation
6 had been extraordinary and that he had started rehabilitating
7 himself before he knew he could get out.

8 Now, another point that's made in all those cases,
9 and, Judge, it really applies here, it applies when we start
10 talking about the amount of time that the petitioners have been
11 locked up. In almost all of the cases, and you've seen them,
12 and I point specifically to a couple of them, the *McGraw* case
13 in the Southern District of Indiana and the *Johns* case in the
14 District of Arizona, almost everybody has done more than 27,
15 28, 30 years in -- in prison when these cases have been -- when
16 these petitions have been granted.

17 And the Court knows, 'cuz I put it in the -- in -- in
18 the brief, Mr. Hourani is going on 28 years, and I -- I
19 translated that for the Court 'cuz we all know about good time
20 and halfway house and things of that nature. Right now, if you
21 released him tomorrow, he would have served the equivalent of
22 384-month sentence, 32-plus years.

23 The rehabilitation part, Judge, I don't think I need
24 to say a whole heck of a lot. I think you know all about it
25 and you certainly had enough in our original petition.

1 I do cite the case of *United States vs. Martin &*
2 *Mangual*, and Linda, that's M-a-n-g-u-a-l, a Fourth Circuit
3 remand case, that's where the Court of Appeals remanded it.
4 Defendant was doing life and the Fourth Circuit noted that he
5 had absolutely overwhelming evidence of rehabilitation.

6 I don't think there's a human being in any of the
7 cases that I've seen that has come close to having the
8 rehabilitation that Mr. Hourani has had. The man has had no
9 tickets, Judge. It's almost impossible to believe. Not even
10 being out of place once in 27-plus years.

11 And I wanted to cite for you -- the rehabilitation,
12 as I say, I don't think I need to talk more about it. But I
13 think that what's important with respect to rehabilitation is a
14 couple of the letters that you received or that were exhibits.
15 One of them was from Kent Dunnington, and Linda, that's
16 D-u-n-n-i-n-g-t-o-n. He's a Ph.D. professor of philosophy. He
17 taught classes at Greenville, the institution where Mr. Hourani
18 has been. And I thought his letter was -- was really
19 fascinating for two reasons. Number one, he gave you a real
20 good overview of all the things that Mr. Hourani has done. You
21 received a lot of that from other people in the institutions.

22 But Mr. or Professor Dunningham [sic] or Dunnington
23 really laid it out for you and he used a phrase that I think
24 really applies in this case. He said that he believes that,
25 for the reasons that he cited to you, that Dani Hourani, quote,

1 "has developed a virtuous character and is someone who is fit
2 for a productive life as a citizen outside of the prison
3 setting." The -- the interesting thing about it is that all of
4 the things we've provided you, everybody has said the same
5 thing, everyone has said the same thing.

6 And Professor Dunnington went a little bit further
7 and he obviously said nobody knows anything for sure, but he
8 said from everything he's witnessed, quote, "I would trust Dani
9 as a neighbor or an employee should I ever encounter him on the
10 outside. I hope one day he'll be given chance to contribute to
11 society on the outside." That's pretty strong testimony, not
12 sworn testimony, pretty strong statements from a guy who's done
13 a lot of work in prisons and is probably pretty good at
14 distinguishing. It was on page 26, by the way, Judge, of my
15 original brief.

16 If that weren't enough, I think you have to take a
17 look at the words of Judge Terrence Berg because as you know,
18 there's only three of us, four of us counting Mr. Hourani, that
19 were there way back then and are still here today: Mr. Hourani,
20 me, you and Judge Berg, then Assistant U.S. Attorney Berg. And
21 for a federal judge to sit down and write a letter of the type
22 that he did and to indicate why he believed that Mr. Hourani
23 was a person who should qualify for release, to me that's a
24 big, big deal. Of all the cases that Mr. Hourani and I looked
25 at, I can't remember which case, but there was one other case I

1 recall where the prosecutor on the case, and I don't remember
2 if he or she had become a judge, but the prosecutor on the case
3 wrote a letter, and of course the district court judge that
4 granted the motion cited that as big -- you know, as -- as a
5 big contributor.

6 And what did Judge Berg say at the end? And I'm not
7 going to read all of his stuff, but what did he say at the end?
8 He said that Mr. Hourani he believed would be a productive and
9 law-abiding member of society if he were released. And, of
10 course, you know that Judge Berg was presented with all the
11 same things before he was a judge when I was years ago trying
12 to obtain Mr. Hourani's release before the First Step Act, so
13 he's seen everything that you've seen.

14 And one other thing that I want to talk about before
15 I listen to the government, I want to talk about this notion
16 that the only thing we're relying on is rehabilitation. And
17 while it is absolutely true that Mr. Hourani's rehabilitation
18 has been extraordinary, and while I believe, I agree with Judge
19 Leitman and some of the other judges, that you probably can do
20 it even though the statute says something different, that's not
21 what we're saying here, that's not all we're saying here.

22 Number one, other factor, the age at the time of the
23 offense. The Court has all that stuff that we sent you in a
24 second part of our argument about the effect of the youth of
25 the offender.

1 The influence of his father. The Court certainly
2 remembers that because his father was on trial with him, which
3 influenced him, there's no doubt in my mind, to turn down the
4 guilty plea that was offered. And I should point out, 'cuz I
5 think the government might have the wrong impression of this,
6 that guilty plea that was offered had nothing to do with
7 cooperation. It was between -- I don't remember off the top of
8 my head, but it was offered as a plea that Mr. Berg then and
9 Mr. Tukel, also now a judge, they knew that Dani Hourani,
10 they're not going to ask him to testify against his own father.
11 That plea was a guilty plea offer, and the reason he didn't
12 take it, and I can tell you as his judge, is because his father
13 pressured him.

14 The next thing that makes this a different kind of
15 case is his role in the offense. The Court remembers the
16 testimony and you said you've reviewed everything. He's three
17 steps removed from the homicide. Doesn't make him not guilty
18 obviously 'cuz he's been in for almost 28 years, but it's a lot
19 different than if he were standing here in front of you as the
20 person that pulled the trigger, okay?

21 The fourth thing that has nothing to do with
22 rehabilitation and is cited in other cases as well and it's
23 cited in Judge Berg's letter to the Court, well, the letter to
24 the Pardon Board I think it was originally, is that the amount
25 of time that he has served now exceeds the total sentence for

1 all of the other cooperators -- I'm sorry, other co-defendants,
2 all of whom were closer to the actual killing, all of them
3 closer, and he's now served more time than all of them added
4 together. Most of those guys, the Rahal brothers, they've been
5 home for 15 years, 20 years already.

6 And then finally, of course, I already said this to
7 you, what's different is this prosecutor believes he should be
8 released.

9 So we're not just saying to the Court that this is
10 the -- only because of his sensational rehabilitation. It's
11 because of all of these other factors that also contribute.

12 I want to say a couple other things just so the Court
13 knows. There was a reference in the government's response,
14 something about the deceased and his family and what -- the
15 impact. The Court recalls I'm sure nobody from the Berri
16 family attended the trial, nobody from the Berri family talked
17 with Probation, nobody from the Berri family sent anything to
18 the Court, and nobody from the Berri family appeared at
19 sentencing.

20 And I can tell you, I can tell you as sure as I'm
21 sitting here, it -- this case in the Dearborn community is a
22 big, big deal. Everybody knows what's going on. Everybody
23 knows this motion is pending. The families are all sitting on
24 tenterhooks waiting to see what the Court does. If there was
25 something, if there was a -- someone from his family, I

1 guarantee you he'd be here or she'd be here or she'd be -- make
2 it known to the prosecution or something. So I want you to
3 know that as well.

4 And the last thing I wanted to say before I listen to
5 the government, there -- there's a quotation from one of the
6 zillion cases that I cited for you, and just in case you wanted
7 to look at it, I think I'm going to read the quotation
8 accurately. It was *United States vs. Brown*; the citation was
9 05-00227. It came from, of all places, the Southern District
10 of Iowa. And in that case where the judge had turned Mr. Brown
11 down one time, after Mr. Brown petitioned pursuant to the First
12 Step Act, the district court said as follows: "Congress passed
13 the First Step Act as a down-payment in unwinding decades of
14 mass incarceration. The law's text was explicit that it sought
15 to increase the use of compassionate release. The Court
16 intends to follow that directive." End quote. That's
17 precisely -- I couldn't say it better than the district court
18 said it in Iowa.

19 I thank you. If you have any questions of me,
20 obviously I'm here. Otherwise, I'd just like to be able to
21 respond to what Ms. Currie has to say.

22 THE COURT: I have no questions and I'd like to hear
23 from the government.

24 MS. CURRIE: Thank you, Your Honor.

25 There are -- and I am going to focus on the

1 compassionate release issue. As the Court is aware, there's an
2 Eighth Amendment issue raised as well. I'd like to rely on my
3 briefs for that argument, but to the extent there's any
4 questions, of course I'm happy to answer them.

5 As for compassionate release, there are three hurdles
6 that Mr. Hourani needs to overcome here. First, he has to
7 convince the Court that it has judicial authority to determine
8 other reasons for compassionate release.

9 Second, he has to show that his circumstances are
10 extraordinary and compelling.

11 And finally, the Court would need to analyze the 3553
12 factors and conclude that those supported release as well.

13 He hasn't overcome any of these hurdles, and the
14 failure on any one of them is fatal to the petition.

15 So beginning with judicial authority, this issue
16 centers on a policy statement. Under the statute,
17 compassionate release is only allowed if it is consistent with
18 applicable policy statements. The parties don't dispute that,
19 and they also don't dispute that the applicable policy
20 statement is Section 1B1.13.

21 Under the policy statement, compassionate release
22 must be based on one of four categories. Mr. Hourani is
23 relying on the last category, and that is other reasons as
24 determined by the Bureau of Prisons. The dispute here is over
25 the continued involvement of the Bureau of Prisons.

1 So the theory here advanced by Mr. Hourani is that
2 the First Step Act has somehow overridden the Bureau of
3 Prisons' role and, more than that, has actually supplanted the
4 courts in the place of the Bureau of Prisons and given judicial
5 authority to determine other reasons for compassionate release.

6 This is a question of statutory interpretation and so
7 the place to start is the express language of the statute. To
8 state the obvious, the First Step Act does not say that courts
9 have the authority to determine other reasons that are
10 extraordinary and compelling. There is no express grant of
11 judicial authority to act. What it does say is that defendants
12 can seek compassionate release on their own motion.

13 It would have been easy for Congress to say that
14 courts can decide defendant-initiated motions and determine
15 extraordinary and compelling reasons, but it didn't do that.
16 And it didn't do that despite that Section 1B1.13 existed when
17 Congress enacted the First Step Act. Congress was aware about
18 subdivision (D) and the Bureau of Prisons' role in determining
19 other reasons and yet chose not to disturb it at all.

20 The argument here is -- is not that there's an
21 express grant of authority but that there's purported
22 inconsistency. The argument is that allowing defendants to
23 bring their own motions is inconsistent with the Bureau of
24 Prisons maintaining its role in determining extraordinary and
25 compelling reasons.

1 The problem is that is that argument doesn't
2 logically follow. The ability of defendants to bring their own
3 motions as a procedural matter has nothing to do with the BOP
4 maintaining a substantive role in determining extraordinary and
5 compelling reasons. So these two things are not mutually
6 exclusive. There is no actual conflict.

7 And, in fact, Congress did not eliminate the Bureau
8 of Prisons at all. In the statute, it says upon motion of the
9 Director of the Bureau of Prisons or upon motion of the
10 defendant, the Bureau of Prisons isn't cut out. It could still
11 bring a motion.

12 In addition, there was also --

13 THE COURT: It says or. It says or.

14 MS. CURRIE: -- a requirement where the BOP is
15 still --

16 THE COURT: It says or.

17 THE COURT REPORTER: Wait. One at a time.

18 THE COURT: It says or. It doesn't say and.

19 MS. CURRIE: Correct. So -- but the Bureau of
20 Prisons could have brought a motion on behalf of Mr. Hourani.

21 THE COURT: They could have but they didn't so he had
22 a right to do it.

23 MS. CURRIE: Correct. Correct. And the point being
24 though that Congress didn't say let's box out the Bureau of
25 Prisons entirely.

1 And it also maintained this exhaustion requirement,
2 so it still envisioned the Bureau of Prisons at least having an
3 opportunity to weigh in on the issue of compassionate release.
4 And so it's not surprising that Congress might also have
5 intended that the Bureau of Prisons maintain a substantive role
6 in determining extraordinary and compelling reasons.

7 I think the -- the main argument advanced by Mr.
8 Hourani relates to the title of the provision, and Mr. Fishman
9 has mentioned the increase -- the goal of increasing the use of
10 compassionate release. So the argument is that giving judicial
11 authority, the courts would increase use of compassionate
12 release, but that doesn't show an inconsistency which is really
13 what's needed to override the policy statement. We could come
14 up with a hundred ways to increase the use of compassionate
15 release. Congress could lower the age criteria, we could
16 eliminate the exhaustion requirement, Congress could change its
17 line about rehabilitation alone not being enough, and it didn't
18 do any of those things, just as Congress didn't eliminate the
19 Bureau of Prisons' substantive role.

20 So what Congress did do is allow defendants to bring
21 their own motions. That choice, in and of itself, has
22 increased the use of compassionate release. As this Court is
23 aware in the last several months, dozen of inmates have been
24 released based on age and medical conditions without having to
25 resort to other reasons.

1 And I think it's worth noting that the Bureau of
2 Prisons since the enactment of the First Step Act has actually
3 identified other reasons. So that subdivision (D) has not been
4 meaningless since the passage of the First Step Act.

5 And I'm not going to go through the entire Program
6 Statement, but as relates to age, the Bureau of Prisons has
7 come up with at least two different scenarios under which a
8 defendant could be -- his circumstances could be extraordinary
9 and compelling even if they don't fit the criteria under
10 subdivision (B) that's identified by the Sentencing Commission.
11 So under subdivision (B), the defendant has to be 65, they have
12 to have deteriorating health, and they have to have served ten
13 years or 75 percent of their sentence. The Bureau of Prisons
14 has said under certain situations serving 50 percent of their
15 sentence would be enough. So you could envision a situation
16 which a defendant who doesn't qualify under the existing
17 category qualifies under the Bureau of Prisons' Program
18 Statement. So there is some meaning behind that subdivision
19 (D); it's not sitting out there idly.

20 Mr. Fishman has -- has devoted some time to
21 discussing some of the cases out there. There are many
22 district courts who have addressed compassionate release
23 motions since the passage of the First Step Act and the courts
24 are split on this. None of the cases are binding so I would,
25 of course, note that. And the thing that is binding is the --

1 the statute itself. Congress has expressed intent is -- is
2 what controls.

3 And Mr. Fishman also indicated, at least courts are
4 stating, that the majority trend is in favor of judicial
5 authority. A lot of the cases are simply citing the majority
6 and then jumping aboard without any independent analysis. So I
7 think this majority view sort of loses some persuasive weight
8 when these courts aren't necessarily including an analysis.
9 And the courts that have analyzed the issue, frankly their
10 analysis is -- is not very compelling.

11 So the -- the *Bryant* court has said that there's some
12 partial inconsistency between the First Step Act and the policy
13 statement, and that centers of course on who the movant is.

14 Another case has -- oh, here it is. In *Beck* the
15 Court strained to conclude that the First Step Act is likely
16 inconsistent with the Bureau of Prisons maintaining a
17 substantive role.

18 And then in *Cantu*, this is relied on heavily by the
19 defense, the Court actually acknowledges "one could come up
20 with -- and this is a quote -- "one could come up with some
21 policy arguments for leaving 1B1.13 subdivision (D) as is.
22 Congress may have wanted the Director of the Bureau of Prisons
23 to publish additional guidance and maintain control over what
24 additional factors would constitute extraordinary and
25 compelling reasons." So that court acknowledges that there's a

1 possibility, and it wouldn't be entirely inconsistent, to
2 maintain that provision.

3 But then goes on to apply the rule of lenity under
4 which two rational readings of the statute would compel the
5 Court to treat -- to -- to favor the one that treats the
6 defendant less harshly. Well, there aren't two rational
7 readings of this statute. It's -- this is a misapplication of
8 the rule of lenity. There needs to be an ambiguity for there
9 to -- to apply the rule of lenity. So these courts are really
10 stretching.

11 Another example of stretching is in several of the
12 cases, including *Maumau* and *Brown*, in both of those cases the
13 Court reasoned that the judiciary must have the authority
14 because the only way to increase -- because that would be the
15 only way to increase use of compassionate release. And for the
16 reasons I've already said, it's not the only way to increase
17 use. There's lots of way to increase use. And just giving the
18 defendants the procedural right to bring their own motion does
19 increase use.

20 So I would say that the -- the courts that have --
21 have found no incompatibility, no conflict, those are far more
22 persuasive and consistent with the statutory text, which is of
23 course what is the controlling authority for the Court.

24 So the second hurdle, assuming that Mr. Hourani is
25 able to establish the judicial authority for the Court to act,

1 is extraordinary and compelling circumstances. And first and
2 foremost is -- is Congress has spoken about rehabilitation and
3 said that rehabilitation alone shall not be considered
4 extraordinary and compelling, and there's not really any -- any
5 dispute here.

6 But I think it's -- it's worth noting that in reading
7 the petition and the reply, that is the thrust of -- of the
8 argument. And in the reply at page I.D. 600, defense counsel
9 says he's relying on "the most extraordinary rehabilitation
10 that defense counsel has ever seen in his 47-year legal
11 career." I don't doubt that, the veracity of that statement at
12 all. The problem is that the statute leaves no room for that
13 argument. Rehabilitation, no matter how impressive, is still
14 rehabilitation.

15 In -- and it's worth noting that 994(t) serves an
16 important purpose because without it, there would be no
17 limiting principle. How would you separate sufficient
18 rehabilitation from something less? What's the method of
19 measurement? And if this Court were convinced that Mr.
20 Hourani's rehabilitation was sufficient, how is that going to
21 be applied in other -- in other situations and -- and won't it
22 invite a flood of petitions in which defendants who have
23 engaged in -- in good and admirable work while in prison are
24 not just continuously seeking a relief and transforming the
25 courts into a parole board? That's something that Congress has

1 never intended to impart. So this directive against
2 considering rehabilitation alone makes a good deal of sense.

3 So the real question is whether Mr. Hourani can point
4 to something other than rehabilitation that qualifies as
5 extraordinary and compelling. And we have heard from Mr.
6 Fishman on a number of those issues in the briefs and today,
7 and I would submit that they -- they fall into essentially four
8 categories that I'd like to address in turn.

9 And just at the outset, these categories are things
10 that either challenge the conviction and sentence itself or are
11 very commonplace occurrences and therefore shouldn't be deemed
12 extraordinary.

13 But let's go through each of them, and the first one
14 being passage of time. Mr. Hourani has served 27 years in
15 prison. That is not extraordinary for someone who is convicted
16 by a jury of First Degree Murder and where a statute mandates
17 that that conviction carries a life sentence. The passage of
18 time inevitable. It affects -- affects all prisoners exactly
19 the same.

20 I think the argument is how Mr. Hourani has spent his
21 27 years, and -- and it does appear, based on everything that
22 I've seen, that he's -- he's done some very admirable work.
23 It's impressive, it's laudable, but the duration of
24 rehabilitation doesn't change what it is. It's still
25 rehabilitation, just as the degree or the genuineness of

1 rehabilitation doesn't change what it is.

2 So the passage of time would also present the same
3 line drawing problem as -- as rehabilitation does. How many
4 years is enough, and does that depend on -- on who you're --
5 who the defendant is and all the surrounding circumstances? So
6 that ends up being a line drawing problem as well.

7 The next main category is relating to culpability.
8 Mr. Hourani argues that he is the least culpable and yet
9 serving the longest term of those who were involved in this
10 plot to kill a federal witness. I would first say that that
11 claim isn't supported. His culpability is that of -- of
12 someone convicted by a jury of First Degree Premeditated
13 Murder, and the evidence, and I've reviewed the trial
14 transcript as well, is that he -- he ordered and arranged this
15 hit and that he is very much responsible for the murder that
16 occurred. So for someone of Mr. Hourani's culpability, life in
17 prison is expected and appropriate, it's not -- it's not
18 extraordinary.

19 The next category relates to a rejected plea deal.
20 And I understand that Mr. Hourani turned down a 20-year plea
21 deal. This is the buyer's remorse situation and it does occur
22 regularly. It's not extraordinary among defendants convicted
23 by a jury. Many would have received a better deal had they
24 pleaded guilty.

25 It's also improper for the Court to consider failed

1 plea negotiations. No agreement was reached, and yet the
2 suggestion here is that the government is somehow stuck with
3 its offer. Accepting this theory would chill plea negotiations
4 because prosecutors would have to consider that its offers
5 could be used against them years later.

6 Mr. Hourani says that he rejected the plea because of
7 his age and his father's influence. We don't -- we don't know
8 that for sure, there's not proof of that. But we do know that
9 Mr. Hourani had counsel, and it was counsel's role to make sure
10 that his client understood the stakes.

11 And so that type of issue with the plea negotiations
12 is not appropriate to raise in a compassionate release context,
13 and -- and I think one has to consider how many defendants
14 would make the same type of claim. I -- I think countless
15 defendants would say that at the time, you know, their maturity
16 level they didn't quite appreciate the situation, and I think
17 many defendants could say they were under the influence of --
18 of someone else.

19 The bottom line, a rejected plea deal is commonplace,
20 it's not extraordinary, and to conclude otherwise would invite
21 a whole host of problems.

22 The final category is this letter from Judge Berg in
23 support of clemency. And I think the -- the main thing to
24 point out here is that it was written in support of clemency,
25 not compassionate release, so it's not extraordinary for

1 purposes of compassionate release. Judge Berg is, of course,
2 not representing the government at this time and he's not
3 presiding over this case.

4 Mr. Hourani points to the letter as evidence of his
5 lesser culpability, but I would disagree with that conclusion.
6 Judge Berg explains that Mr. Hourani instigated, he
7 orchestrated the entire plot. But regardless, Your Honor sat
8 through the trial and there's no need to rely on the summary of
9 Judge Berg.

10 To the extent the letter has any value, Judge Berg
11 outlines Mr. Hourani's rehabilitation, and that's very clearly
12 why Judge Berg is in favor of -- of clemency. And while it may
13 be a good reason for clemency, Congress has indicated that it
14 shall not be considered in the context of compassionate release
15 standing alone.

16 So having gone through the asserted other reasons
17 beyond rehabilitation, we're left with rehabilitation alone,
18 and -- and therefore Mr. Hourani cannot satisfy the
19 extraordinary and compelling reason requirement.

20 The last factor is the -- well, the 3553 factors, and
21 I'll essentially rely on my -- my briefs there, but the main
22 one being the seriousness of the offense. And although
23 rehabilitation, everything here is -- is -- is impressive, it's
24 certainly something to be applauded, but on balance the crimes
25 that Mr. Hourani was convicted of loom larger.

1 And then just as a final note in the big picture
2 of -- of things, the government was a little disappointed not
3 to see an expression of remorse in the petition, and I do think
4 that's relevant for the Court to consider when Mr. Hourani is
5 effectively asking for mercy. I understand or I'm told that
6 the victim's family maybe -- may not have been present, but I'm
7 still not aware of any effort to locate them or expression --
8 express an apology.

9 So -- and then finally, as another big picture point,
10 I'm not aware of any case in which first -- a first degree
11 murderer was granted compassionate release. All of the cases
12 in which Mr. Fishman has relied on where someone serving a life
13 sentence was released was under different circumstances, and I
14 believe in all of them the -- excuse me, in some of them the
15 sentencing law was altered, and the Court was relying on that
16 fact in concluding that under current law if that were
17 available to the defendants, they would not be serving time and
18 that was the -- the driving force.

19 Just to highlight on a few of the cases that Mr.
20 Fishman spoke of specifically, in *United States vs. Sapp*, that
21 is Judge Leitman's decision out of the Eastern District, he's
22 one of the -- the courts who didn't provide an independent
23 analysis regarding judicial authority. He follows a *Rodriguez*
24 decision in a footnote and -- and actually denies compassionate
25 release, and he finds that there aren't any extraordinary and

1 compelling reasons and that the factors weigh against release
2 anyway. So that at most, the -- the mention of judicial
3 authority is dicta, and again there's no independent analysis
4 to back it up.

5 Oh, the mention of the *Robinson* case, that was really
6 cited only to show why the *United States vs. Marks* is wrongly
7 decided. The government just doesn't want to be on record
8 endorsing the reliance on the anti-stacking provision as being
9 extraordinary and compelling. So I understand that's not
10 involved here at all, but *Marks* was wrongly decided in that --
11 in that instance in relying on the stacking provision.

12 But the stacking analysis is what distinguishes a lot
13 of these cases from what we have here. So Mr. Fishman has
14 relied on *United States vs. Marks*, and there the defendant was
15 serving a 40-year sentence for drug and firearm offenses. The
16 Court there relied on rehabilitation and the anti-stacking
17 provision. So it's distinguishable there because Hourani's
18 life sentence remains mandatory under the law and -- and he is
19 ultimately seeking compassionate release based on
20 rehabilitation alone.

21 In *Millan*, M-i-l-l-a-n, that is the case where
22 essentially -- and it's the only one that I'm aware of where
23 the Court is saying essentially rehabilitation alone is enough.
24 That one is, you know, again, just totally contrary to 994(t),
25 and the only way the Court tries to -- to get around that is by

1 saying that having a life sentence means that the -- makes the
2 rehabilitation genuine. And while that may be true, genuine
3 rehabilitation is still rehabilitation. It would also seem to
4 reward individuals in prison who are serving life sentences to
5 the exclusion of -- of other individuals incarcerated who are
6 doing the same degree of -- of rehabilitation.

7 And unless the Court has any other questions for me
8 before shifting back to Mr. Fishman, that's -- that's all I
9 have to say on that issue.

10 THE COURT: Thank you. Very nice job. I appreciate
11 it.

12 Mr. Fishman, anything else you wish to say?

13 MR. FISHMAN: Yes, sir. Let me -- let me address all
14 three of those things.

15 The business about judicial --

16 THE COURT: Hold on one second. One second.

17 Hey, Johnetta, where -- if I wanted to turn off my
18 sound, I don't -- I can't find it on the bottom here. I have
19 the big -- the big screen up. That's okay. I don't have to
20 turn it off. I was just curious. Well, I'll talk about it
21 later. Okay.

22 THE CLERK: Okay.

23 THE COURT: Mr. Fishman.

24 MR. FISHMAN: Okay. So the first question that --
25 that Ms. Currie raised is whether or not there's judicial

1 authority. I'm not going to beat a dead horse, but I've cited
2 another six or eight cases in my reply brief that -- you know,
3 she says that the courts didn't come to it in their own. I've
4 got quotations from those courts, *U.S. vs. Parker* in
5 California, *U.S. vs. Rodriguez* in Pennsylvania, where they
6 recognize exactly the arguments that the government's making
7 called Section 1B1.13, but they say that that -- that
8 doesn't -- that's not accurate. The -- as the Court said in
9 *Parker*, "The policy statement codified in 1B1.13 no longer
10 limits the circumstances under which a defendant may seek
11 compassionate release. Instead, the Court can determine
12 whether any extraordinary and compelling reasons other than
13 those delineated in 1B1.13 warrant granting relief." I'm not
14 going to talk to you anymore about them because you have all
15 the rest of the cases there.

16 The second thing about this business that we're
17 asking for extraordinary and compelling reasons based on
18 rehabilitation alone, what she did was she did the classic
19 thing that usually the defense lawyers have to do when we
20 really don't have a good argument. You take the five or six
21 things that all together show the Court that it's not just
22 about rehab and you try to pick them apart one by one. For
23 instance, his culpability level was really higher than what I'm
24 saying, even though Judge Terrence Berg who prosecuted the case
25 is the one who says it. I'm not the one -- I'm saying it too,

1 but Judge Berg is saying it.

2 All of those circumstances that I talked about, age
3 at the time of the offense, the influence of his dad, the role
4 in the offense, the amount of time he served, the fact that
5 his -- his own prosecutor believes he should be released, those
6 things in addition to his rehabilitation are all things that
7 the Court can consider, and therefore you would not be granting
8 compassionate release on rehabilitation alone.

9 The third thing, the 3553(a) factors, Judge, I'm glad
10 she brought that up because obviously the Court sees that in
11 every single case and we read it about in all of our sentencing
12 memos. And if you look at the 3553(a) factors, the seriousness
13 of the offense, I agree with her a hundred percent, of course
14 it's a serious offense.

15 But look at every other 3553(a) factor, Judge, and
16 what do you see that Dani Hourani doesn't match? Every single
17 thing he matches. And if you need, I recently in the last
18 couple of days -- I don't want to send anything new to the
19 Court or to the government. If you want to see, as of
20 March 25th, 2020, what the Greenville FCI wrote with respect to
21 Mr. Hourani, there's two things they talk about. First Step
22 Act, you can either be circled eligible or ineligible. It's
23 circled eligible.

24 Recidivism risk level, which is something that goes
25 directly to 3553(a), Mr. Hourani with his conviction, which we

1 all know is so severe, minimum. They have a choice, minimum,
2 low, medium or high. He's minimum.

3 If the Court wants me to send it, obviously I'll send
4 a copy to the government, I'd be happy to send it to you.

5 THE COURT: That's okay, I don't need it.

6 MR. FISHMAN: Okay. So -- so -- but my point being
7 this is the time where I'm encouraging the Court to look at the
8 3553 factors because the 3553(a) all support our petition. The
9 fact that the offense was serious, think about it, Judge.
10 You've been there a long time, you've handed out some serious
11 sentences. Do you think a 384-month sentence, which is what he
12 would be sentenced to if you let him out tomorrow, that's a
13 pretty damn serious sentence to go along with the seriousness
14 of the offense.

15 So I -- I -- I go back to where I was before. I
16 wrote it in the petition. I think Dani Hourani is the poster
17 child for the First Step Act. I think he satisfies every
18 single thing for the reasons that I've said and I'm anxiously
19 awaiting the Court's ruling.

20 THE COURT: Okay. Thank you.

21 In this matter the Court has listened to argument.
22 I've read everything in here. I'm familiar with the case. I
23 tried the case.

24 I think, and I want to make sure that it's clear on
25 this record, I think it is a very serious offense, and I think

1 it is even more serious because it had to do with a witness.
2 And the only way the justice system works is by having
3 witnesses that can testify and not be afraid of any
4 repercussions, especially by the defendant. So it was a very
5 serious offense. It was an offense that -- that affected the
6 system of justice to a great deal or could have and called for
7 necessary deterrence.

8 With that said, I believe in this particular matter
9 that the motion should be granted, and I'm saying it at the
10 beginning rather than at the end because I think it's important
11 to talk about a few things.

12 Number one is in terms of rehabilitation, it is --
13 every prisoner that goes to prison is expected to be
14 rehabilitated. That's why they're in prison. So just
15 rehabilitation, I agree with everybody, does -- is not enough
16 to activate the statute at all. This statute was designed for
17 exceptional cases, extraordinary and compelling cases. And I
18 think this is, as Mr. Fishman said and I have it in my notes
19 was he used, I think this is the poster child for that kind of
20 exception.

21 And let me talk about why. The reason why is not
22 only was the rehabilitation unbelievable in this particular
23 matter, but in addition to that, what makes it exceptional is
24 that he volunteered and he gave of himself to other prisoners
25 so that they could get out and they could become more into

1 society, the -- the transitions and so forth. So not only was
2 he rehabilitated, but he started giving of himself and giving
3 of his knowledge. He learned, he went to school, he proved
4 himself, he did all of these things in addition to
5 rehabilitation, and that he improved society by his courses
6 that he -- that he developed, he developed them himself. I --
7 I read and heard about what he did. And so it wasn't just his
8 rehabilitation but it was his -- his rehabilitation of others.
9 And I could incorporate a lot of things that are in Mr.
10 Fishman's brief. I agree with many, many of them. But I think
11 there's another aspect too and that is -- that's extraordinary
12 in this case is that if he is released, he is released, he is
13 going to help society.

14 And we all talk about Judge Berg's letter, and he's
15 somebody that -- that I respect very much and respect him as a
16 prosecutor. He was a tough, tough, tough prosecutor but fair,
17 always fair. He became the U.S. Attorney when -- when there
18 was a vacancy. I think he was appointed by our bench. That's
19 the respect that he had in terms of what he had to say. And he
20 says -- and -- and you can talk about all the other stuff --
21 and I quote him: "He would be a productive and law-abiding
22 member of society if he were released." The key is productive.
23 So he is not only rehabilitating himself, but he has made
24 himself into somebody that can be trusted, somebody that can be
25 productive when he gets out. He has lots of knowledge to talk

1 about. He's got lots of background. He's got lots of
2 training. So that differentiates him I think from every other
3 case that I've seen so far, that he is going to be a productive
4 member of society, and -- and I think that's important.

5 I think the professor's letter and what the professor
6 would have to say also establishes that. I think that
7 throughout the years from what I can read what he has done
8 establishes that, and I could go on and on.

9 But I -- I -- I adopt most of the things that Mr.
10 Fishman said in his -- his petition to me.

11 Let's talk about the sentencing. I -- and I got my
12 notes out to -- wrote a note to myself at the time of
13 sentencing and I -- it says, "Can only give life." I didn't
14 have an opportunity to -- to really consider him as an
15 individual, had no -- no opportunity to do that, and I think
16 that's part of sentencing, that's something I like. And I
17 don't like minimum mandatories. I think that they -- they
18 don't give you that opportunity. In this case I wasn't too
19 concerned because I thought it was a horrible crime, but he's
20 done -- he's done a lot of time.

21 He was 20 years old when he went in. I remember his
22 father was tried with him. It would be difficult, you know, to
23 send your dad into trial even if there was no deal, you know,
24 to see your dad sitting there trying a case alone and you
25 getting whatever the time was. And so I think that there was

1 that kind of influence, I think that he was young, and I think
2 that this is the kind of case that the compassionate release
3 was designed for. Courts never had the opportunity to do it
4 before.

5 And we look at things different than the Bureau of
6 Prisons, though I suspect if the Bureau of Prisons looked at
7 this, they'd probably conclude the same thing I'm concluding
8 'cuz I think it's a good conclusion.

9 But I never had an opportunity to do it before.
10 This -- this compassionate release gives the Court an
11 opportunity to do for -- do it for. But I think that we as --
12 as a -- as a judicial branch have to exercise it very
13 cautiously and very limitedly. We're -- we shouldn't be
14 second-guessing ourselves as to sentencing. We shouldn't be --
15 be interfering with sentencing. We still have all of the
16 factors to consider, and I've considered every factor that --
17 under 3553 in this case and reached the conclusion that he
18 certainly comes with -- under each one.

19 It is a serious offense. I've just talked about it.
20 I think that it was important maybe at the time for him to get
21 life so that people would be deterred from -- from interfering
22 with witnesses, but he's gotten life and any deterrence factor
23 for others has already been out there. So if people wanted to
24 talk about it, they had a lot of time, 27 years, to talk about
25 it. He's certainly deterred. There's no question in my mind

1 that he's deterred.

2 I don't think there's any question in anybody's mind
3 very frankly that he's going to be a law-abiding citizen. He
4 served 27 years without any kind of ticket as they call them.
5 I mean that's unusual. I've never seen that before or even
6 heard of that before. And he was in some -- he was in a pretty
7 tough prison where it is not real easy and I'm very much aware
8 of it. I've been to many prisons and it's very, very hard not
9 to get something. I mean I've seen, you know, cases where
10 people got tickets because they were, you know, in line wrong
11 and stuff like that, anything. I think that -- that is very,
12 very important to look at in this, as I say, and especially the
13 prisons that he has been in.

14 I think that one of the criteria is to promote
15 respect for the law. I think he has a lot of respect for the
16 law now. I don't think there's any question about it. I think
17 that -- that classes that he's taken, the classes that he's
18 taught, the respect that he's had for the system and for the
19 Bureau of Prisons officers and so forth, certainly he gives us
20 that idea that he certainly respects the law now.

21 Just punishment. I think just punishment. I think
22 that he has justly been punished. He -- he's been there, been
23 in prison 27 years. He has done very, very well. If he gets
24 out, he's going to also do very, very well. For a person that
25 was 20 years old when they went in, to do 27 years, if I was --

1 and I'm not -- I'm not second-guessing myself, if I was to
2 fashion a sentence today knowing nothing about Mr. Hourani,
3 27 years, hard years, regular years is a long, long time and I
4 think it accomplishes all of its goals.

5 Deterrence I've talked about. I don't think we have
6 to deter Mr. Hourani at all. We'll never -- I don't think
7 we'll see him in the system again. All those that would have
8 been deterred by his actions have already been deterred.
9 27 years ago, word was out: hey, you know, if you fool around
10 with federal witnesses, you're getting life. So if there's any
11 deterrence factor, it is out there and it has been out there
12 and will not cause any interference with that factor at all.

13 And to protect the public, I think that we're in
14 pretty good shape to protect the public. We saw the letter of
15 Judge Berg, we saw the professor, what he had to say. We've
16 seen the actions of Mr. Hourani in terms of while he's been in
17 prison they have been nothing but the best.

18 And so I think that he's not only rehabilitated
19 himself but he has assisted, given of himself, volunteered,
20 giving hours that were his own. Those are the extraordinary
21 things in this matter. And the fact that he's not only
22 rehabilitated himself but in such a great fashion: college
23 degrees, certifications, things of that note, matter.

24 So it will be the decision of the Court that the
25 defendant's motion is granted and that the defendant will be

1 released.

2 The government has requested a 30-day stay in this
3 particular matter. The Court's not going to grant a stay for
4 two reasons. Number one is I don't -- he's not a danger as far
5 as I'm concerned to the community, so -- and he's not going
6 anywhere. I've read the letters from his brothers. He's got a
7 brother that's very successful. He's got another brother,
8 brother that's in the real state business who he -- the brother
9 in the real state business offered to allow him to stay there.
10 I'm sure he's not going to be there long. He's going to get
11 out, he's going to get a job. One of the brothers offered him
12 a job, auto repair service that seems to be pretty big, has
13 offered him a job. So he's going to be out there.

14 If the Court of Appeals should not agree with me, and
15 they certainly may or may not, he's not going anywhere. He --
16 he's there, he understands the consequences. But if they rule
17 another way, that he -- he'll be there.

18 So I don't think he's either a danger to our
19 community or a danger of -- of flight risk at this point.

20 So therefore the motion to stay 30 days is granted.

21 I will enter an order that he be released for time
22 served. However, I know the Bureau of Prisons has a protocol
23 for release that has to do with the virus in terms of taking
24 the test and being. So I -- I wanted to make sure when he
25 leaves the prison that it's under the same conditions as

1 everybody else that would leave it, so there -- it may take him
2 a little -- a few days to -- to -- for them to process him out
3 or maybe a few weeks because of the -- of the coronavirus.
4 They have a policy, whatever they do, so we don't infect him or
5 the -- or society.

6 Starting with the government, other than your
7 objection, is there anything else that you would wish to add or
8 subtract or anything else to say?

9 MS. CURRIE: That's everything, Your Honor. Thank
10 you.

11 THE COURT: Okay. And Mr. Fishman?

12 MR. FISHMAN: No, Judge. Thank you very much on
13 behalf of Mr. Hourani and his family.

14 THE COURT: Okay. Mr. Hourani, good luck.

15 MR. HOURANI: Thank you, sir.

16 THE CLERK: Judge?

17 THE COURT: Okay. We'll stand in recess.

18 THE CLERK: Hey, Judge.

19 THE COURT: Yes.

20 THE CLERK: Okay. I will have to get in contact with
21 the probation officer to get some information so it may be a
22 day or two before this --

23 THE COURT: Okay. Get it as quickly as you can. I
24 understand that it has to be done right or the Bureau of
25 Prisons won't do it, so we might as well do it right the first

1 time.

2 THE CLERK: Right.

3 THE COURT: And we'll do it ASAP though.

4 THE CLERK: Okay.

5 THE COURT: Anything else?

6 MR. FISHMAN: Nope.

7 THE COURT: Okay. Thank you. Stay well everybody.

8 MS. CURRIE: Thank you.

9 (Proceedings concluded at 3:28 p.m.)

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C E R T I F I C A T I O N

I, Linda M. Cavanagh, Official Court Reporter of the United States District Court, Eastern District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing pages 1 through 44 comprise a full, true and correct transcript of the proceedings held in the matter of Dani Hourani vs. United States of America, Case No. 95-80071, on Thursday, September 17, 2020.

s/Linda M. Cavanagh
Linda M. Cavanagh, RDR, RMR, CRR, CRC
Federal Official Court Reporter
United States District Court
Eastern District of Michigan

Date: September 18, 2020
Detroit, Michigan